



24671

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

Reply To
Attn Of: ECL-113

March 12, 2001

Ms. Kathleen E. Hain, Director
Environmental Restoration Division
U.S. Department of Energy
Idaho Operations Office
850 Energy Drive
Idaho Falls, Idaho 83401-1563

Re: Request to extend Deadlines for Waste Area Group 7, Operable Unit 7-10.

Dear Ms Hain:

This is in response to your letter dated February 26, 2001, which we received March 5, 2001, requesting to extend the deadlines for Operable Unit (OU) 7-10. The Department of Energy's (DOE's) request is as follows:

- Draft Stage II Remedial Action Report from April 2003 until August 2010;
- Draft Stage III Remedial Design from April 2003 until August 2013; and
- Draft Stage III Remedial Action Work Plan from September 2003 until February 2016.

Any request to extend a timetable and deadline or a schedule is subject to the provisions of Section 13 of the Federal Facility Agreement and Consent Order (FFA/CO). Such a request must include the minimum information required under Section 13.1, i.e., a) the timetable and deadline or the schedule that is sought to be extended; b) the length of the extension sought; c) the good cause(s) for the extension; and d) any timetable and deadline or schedule that would be affected if the extension were granted.

We have carefully reviewed your letter and the issues you have identified as the cause for your extension request. Your first issue concerns the Stage II Remedial Action Report and the impossibility of properly completing this document within the

timeframe allowed. You state that the Work Plan for Stage I, "...grossly underestimated the current scope and difficulty of designing, constructing, and operating the complex nuclear facility required for Stage II of OU 7-10." We find this excuse somewhat troubling for future remediation planning efforts, given that: (1) DOE and contractor staff who are supposedly experienced in nuclear material management issues were directly involved in preparing the Scope of Work schedule; (2) DOE has unilaterally elected to implement only a portion of the Stage I Work Plan to date; and (3) the Stage II design was submitted on schedule. Therefore, we must conclude that, this reason is not a "good cause" basis for an 88 month delay.

Another reason given for delay is that data quality objectives were drastically revised from excavation and storage with the addition of in-situ characterization. Stage I includes retrieval of core materials with follow-up examination to assist in siting the Stage II facility and characterizing Pit 9 materials. DOE has so far, unilaterally elected to not perform this necessary work. Further, in-situ characterization is a necessary and originally planned component of Stage II operations for nuclear criticality and safety concerns, if nothing else. Therefore, this reason for requesting an 88-month extension request is unsupported and does not represent "good cause."

The level of decision-making involvement by the State and Environmental Protection Agency is identified as another reason for the lengthy schedule extension. This cause for extension is unfathomable to us as we submitted our comments in a timely fashion for both the 30% and 90% document reviews. No such excuse was evident in response to our 30% comments and, as stated previously, DOE submitted the 90% Remedial Design and Remedial Action Work Plan within the deadline date. Therefore, this cause for an extension does not appear to be a basis for "good cause."

Further, DOE's letter claims that the schedule previously provided, fully detailed the steps and associated durations necessary to perform Stage II. We disagree with the schedule submitted and in discussions with DOE, we suggested alternative options which would have substantially reduced the time estimates. DOE apparently has chosen to ignore our suggestions. Therefore, the schedule submitted is not an adequate basis for establishing "good cause" for an 88-month schedule extension.

In addition to the 88 month deadline extension request for the Stage II Remedial Action Report, DOE has also requested a 124-month extension for the Stage III Remedial Design and a 149-month extension for the Stage III Remedial Action Work Plan and Operations and Maintenance Plan. This represents approximately a 32-month extension from finalization of the Stage II Remedial Action Report, for the Stage III Remedial Design with an


additional two years for submission of the Remedial Action Work Plan. Although we agree that there is basis for deferring the deadline date for the Stage III deliverables beyond that of the Stage II Remedial Action Report, no "good cause" is given to support the proposed deadline dates.

We agree that OU 7-10 Stage II is complex. It is this very complexity that argues for its performance in support of the Comprehensive Pits and Trenches (i.e., OU 7-13/14) Remedial Investigation and Feasibility Study (RI/FS). However, DOE has elected to push ahead with meeting the March 2002 deadline for the RI/FS, knowing that needed information will not be available to support identification of a protective and cost effective remedial alternative.

In summary, please let this letter serve as notice, pursuant to Section 13.4 of the FFA/CO that our position is to non-concur on your February 26, 2001, request for an extension of OU 7-10 deadline dates.

Please contact me at (206) 553-7261, if I can be of further assistance in this matter.

Sincerely,



Wayne Pierre
Project Manager

Enclosure:

cc: Dean Nygard, IDEQ
Daryl Koch, IDEQ
Brian Edgerton, DOE-ID
Rick Poeton, EPA